IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2355 OF 2006

LAXMI NAMDEO SORTE & ORS. ..PETITIONERS

V/S

MUMBAI HOUSING & AREA DEVP.

AUTHORITY & ORS. ..RESPONDENTS

P.J. THORAT I/B R.A. THORAT FOR THE PETITIONERS.

UDAY P. WAVUNJIKAR FOR RESP. NO.3.

CORAM : S.K. SHAH, J.

DATE : 14TH MARCH 2007.

P.C.

. Heard learned counsel on both sides. This writ petition is filed against the order passed by the Bombay City Civil Court dismissing the application for bringing the legal representatives on record and thus the suit itself is dismissed as having been abated long back. The application for bringing the legal representatives of the deceased plaintiff No. 2 was made. However no prayer for condonation of delay was made nor there was prayer for setting aside the legal abatement. Consequently upon failing to bring the legal representatives on record

the present Writ Petition was filed. Learned counsel for the petitioner has relied upon the decision of this court wherein it was held that certain practise for brining legal representatives on record itself should be taken as application for condonation of delay as well as for setting aside the abatement.

. Under these circumstances, the impugned order is hereby set aside. Liberty is granted to the petitioner to take out the proper application for condonation of delay as also setting aside the abatement and application for bringing legal representatives of the plaintiff no. 2 on record. If such applications are made the same shall be considered and disposed of on merits. Accordingly the writ petition stands disposed of.

(S.K. SHAH, J.)